

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Comcast of Southern New England, Inc. } Case No.:
("Comcast") }

Plaintiff,

vs.

Mitchell Russo

Defendant

COMPLAINT FOR VIOLATIONS OF 47
U.S.C. §553

MAGISTRATE JUDGE *Cohen*

RECEIPT #
AMOUNT \$150
SUMMONS ISSUED *yes*
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. *10/11*
DATE *8/30/04*

NATURE OF ACTION

1. Plaintiff Comcast of Southern New England, Inc. ("Comcast") brings this Complaint to redress injuries that it has suffered as a result of Defendant Mitchell Russo's (hereinafter the "Defendant") cable television signal piracy.
2. The Defendant's use of three (3) statutorily prohibited electronic devices that descrambled and intercepted Comcast's cable television signals violated provisions of Title 47 U.S.C. § 553 and effectuated a conversion of the Plaintiff's property, its cable television signals.

PARTIES

3. Comcast is a Massachusetts corporation and maintains a place of business at 6 Campanelli Drive, Andover, Essex County, Massachusetts.
4. The Defendant is an individual with his principal residence at 3 Churchill Rd., Chelmsford, MA 01824.
5. Upon information and belief, the Defendant resided at 46 Meadowbrook Rd., Chelmsford, MA at all times relevant to the said violations of 47 U.S.C. § 553.

JURISDICTION AND VENUE

6. This action is brought pursuant to 47 U.S.C. § 553.
7. This Court has original jurisdiction over this action under 28 U.S.C. § 1331. Venue is proper in the United States District Court in and for the District of Massachusetts pursuant to 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

8. Comcast provides cable television services to subscribers in the Chelmsford area, and other areas in Massachusetts pursuant to franchise agreements with various municipalities.
9. Comcast is the successor-in-interest to the legal entity that held the prior cable television franchise in this area, and, as such successor, Comcast has the right to pursue the claims set forth herein even if said claims may have accrued during the time that the predecessor-in-interest held the cable television franchise.
10. In order to provide cable television services, Comcast pays fees to programmers for the right to receive programs, mostly by way of interstate radio communications, and transmit their programming over Comcast's system
11. The signals that Comcast transmits over its system are private, proprietary communications not intended for public use.
12. Subscribers pay Comcast based on the level of service they wish to receive.
13. In order to protect its signals and maintain the value of its services, Comcast electronically encodes or scrambles some of its signals so that they must first be decoded by electronic decoding equipment in order to be viewed clearly on a television receiver. The signals Comcast encodes or scrambles include premium channels, such as HBO, Showtime, and Cinemax, for which subscribers pay a separate monthly subscription fee, and pay-per-view events, such as a specific

movie, concert or sporting event, for which subscribers pay a specific one-time charge to view each event. Comcast provides subscribers with electronic decoding equipment (hereinafter referred to as "decoders") to decode these signals. Comcast programs these decoders so that a subscriber may only view that level of service, which he or she has purchased.

14. On or before September 4, 2001, the Defendant or some third party modified certain decoders, without Comcast's authorization, thereby creating three (3) descrambling devices.
15. The descrambling devices were capable of defeating Comcast's encoding and scrambling technology.
16. The Defendant used the descrambling devices to receive, without authorization, scrambled or encoded programming and services offered over Comcast's system.
17. By using the unauthorized and illegal descrambling devices, the Defendant was able to view Comcast's highest level of cable television programming and service, including premium channels and pay-per-view events, while only paying for a lower level of service.

COUNT I
(Violation 47 U.S.C. § 553)

18. Comcast realleges and incorporates by reference paragraphs 1 through 17 above.
19. The Defendant's conduct violated Title 47 U.S.C. § 553(a).
20. Comcast is a person aggrieved by the Defendant's violation of Title 47 U.S.C. § 553 and is authorized to institute this action pursuant to Title 47 U.S.C. § 553(c)(1).
21. The cable transmissions that make up Comcast's signal are communications services offered over a cable system and, as such, are protected by Title 47 U.S.C.

§ 553.

22. The Defendant knowingly and willfully violated Title 47 U.S.C. § 553.
23. Comcast did not authorize or consent to the Defendant's interception and use of its cable transmissions.
24. The Defendant's violations have injured Comcast's ability to generate revenue by depriving Comcast of payment for its programming.

COUNT II

(Conversion)

25. Comcast realleges and incorporates by reference paragraphs 1 through 24.
26. The Defendant exercised dominion and control over the Plaintiff's property, its cable television signals, without authorization or legal right to do so.
27. The Defendant's conduct was willful, intentional, malicious, and wrongful, with the intent to deprive the Plaintiff of the right to possession of its cable television signals.
28. As a direct and proximate result of the Defendant's conversion of the Plaintiff's signals the Plaintiff has suffered monetary damages; accordingly, the Defendant is liable for all of the Plaintiff's damages.

WHEREFORE, Comcast prays for Judgment against the Defendant and requests that the Court grant it the following relief:

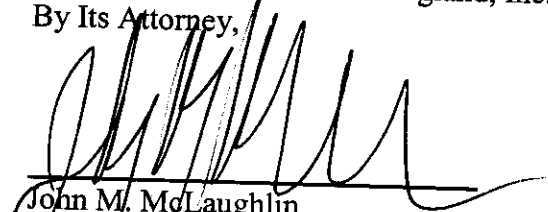
1. Statutory damages of \$10,000.00 for each violation of 47 U.S.C. § 553(a), totaling \$30,000.00.
2. Money damages in favor of the Plaintiff for all damages the Plaintiff has suffered as a result of the Defendant's conversion;

3. Comcast's attorney's fees and costs in prosecuting this lawsuit as provided for by 47 U.S.C. 553(c)(2)(C);
4. The issuance of a permanent injunction pursuant to provisions of 47 U.S.C. § 553 utilizing the following language or language of a similar nature:

"The Court hereby enjoins the Defendant, the Defendant's respective agents, servants, employees and any person or entity controlled directly or indirectly by the Defendant or acting on the Defendant's behalf from the further use and/or distribution of electronic equipment designed for the unauthorized interception of signal in violation of provisions of Title 47."
5. Post judgment interest pursuant to 26 U.S.C. § 1961; and
6. Such other and further relief as this Court may deem just and proper.

Respectfully Submitted for the Plaintiff,
Comcast of Southern New England, Inc.
By Its Attorney,

8/26/04
Date


John M. McLaughlin
MCLAUGHLIN SACKS, LLC
31 Trumbull Road
Northampton, MA 01060
Telephone: (413) 586-0865
BBO No. 556328

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

1. (a) PLAINTIFFS

Comcast of Southern New England, Inc.

DEFENDANTS

Mitchell Russo

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Middlesex
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Middlesex
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

John M. McLaughlin
McLaughlin Sacks, LLC, 31 Trumbull Road
Northampton, MA 01060 (413) 586-0865

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	1		Incorporated or Principal Place of Business in This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business in Another State	5	5
Citizen or Subject of a Foreign Country			Foreign Nation		3

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
10 Insurance	PERSONAL INJURY	PERSONAL INJURY	10 Agriculture	422 Appeal 28 USC 158	100 State Reapportionment
20 Marine	110 Airplane	362 Personal Injury - Med. Malpractice	20 Other Food & Drug	423 Withdrawal 28 USC 157	110 Antitrust
30 Miller Act	115 Airplane Product Liability	365 Personal Injury - Product Liability	25 Drug Related Seizure of Property 21 USC 881		130 Banks and Banking
40 Negotiable Instrument	320 Assault Libel & Slander	368 Asbestos Personal Injury Product Liability	30 Liquor Laws	PROPERTY RIGHTS	150 Commerce/ICC Rates/etc.
50 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers Liability		40 R.R. & Truck	320 Copyrights	160 Deportation
151 Medicare Act	340 Marine	PERSONAL PROPERTY	50 Airline Regs.	330 Patent	170 Racketeer Influenced and Corrupt Organizations
52 Recovery of Defaulted Student Loans (Excl. Veterans)	345 Marine Product Liability	370 Other Fraud	50 Occupational Safety/Health	340 Trademark	310 Selective Service
53 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	371 Truth in Lending	60 Other	SOCIAL SECURITY	350 Securities/Commodities/Exchange
160 Stockholders Suits	355 Motor Vehicle Product Liability	380 Other Personal Property Damage	LABOR	161 HIA (1395ff)	375 Customer Challenge 12 USC 3410
190 Other Contract	360 Other Personal Injury	385 Property Damage Product Liability	710 Fair Labor Standards Act	162 Black Lung (923)	391 Agricultural Acts
195 Contract Product Liability			20 Labor/Mgmt Relations	163 DIWC/DIWW(405(g))	392 Economic Stabilization Act
			730 Labor/Mgmt Reporting & Disclosure Act	164 SSID Title XVI	393 Environmental Matters
			740 Railway Labor Act	165 RSI (405(g))	394 Energy Allocation Act
			790 Other Labor Litigation	FEDERAL TAX SUITS	395 Freedom of Information Act
			791 Empl Ret Inc. Security Act	870 Taxes (U.S. Plaintiff or Defendant)	396 Appeal of Fee Determination Under Equal Access to Justice
				871 IRS - Third Party 26 USC 7609	950 Constitutionality of State Statutes
					990 Other Statutory Actions

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ Reinstated or Reopened ☐ Transferred from another district (specify) ☐ Multidistrict Litigation ☐ Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$
\$30,000.00

CHECK YES only if demanded in Complaint
JURY DEMAND: YES ☒ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Comcast of Southern New England, Inc. vs. Mitchell Russo
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- XX II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

2004 AUG 30 P 2:13

*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

None

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?
- YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☒

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☒ NO ☐

1. IF YES, IN WHICH DIVISION DOALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?
- EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

2. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME John M. McLaughlinADDRESS MCLAUGHLIN SACKS, LLC, 31 Trumbull Rd., Northampton, MA 01060TELEPHONE NO. (413) 586-0865